

In regard to Groups I and II, the Office has characterized the relationship between these two groups as subcombinations disclosed as usable together in a single combination. Citing MPEP §806.05(d), the Office concludes that “invention II has separate utility such as such as other coagulation assays”. However, the Office has not provided reasons and/or examples to support this conclusion. Therefore, the Office merely constructs a conclusion lacking any facts, evidence, or support whatsoever. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement.

In regard to Groups I and II, III, and IV, the Office has characterized the relationship between these groups as process and apparatus for its practice. Citing MPEP §806.05(e), the Office suggests “that the method as claimed can be used to practice another and materially different apparatuses such as by hand”. The Office has failed to provide any evidence that the claimed method can be carried out by hand. Even if the claimed method could be carried out by hand, the Office has failed to explain how carrying out the claimed method by hand is materially different with the claimed kit and/or claimed. Therefore, the Office merely constructs a conclusion lacking any facts, evidence, or support whatsoever. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement.

In regard to Groups II-IV, the Office has characterized the relationship between these groups as process and apparatus for its practice. Citing MPEP §806.05(e), the Office suggests “that the method as claimed can be used to practice another and materially different apparatuses such with other kits and systems”. At the outset, group II is drawn to a reagent, not a process. Further, the Office has failed to provide any evidence that the claimed reagent can be carried out with other kits and systems. Even if the claimed method could be carried

out with other kits and systems, the Office has failed to explain how carrying out the claimed method with other kits and systems is materially different with the claimed kit and/or claimed. Therefore, the Office merely constructs a conclusion lacking any facts, evidence, or support whatsoever. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement.

Applicants further traverse the Restriction Requirement on the additional ground that a search of all the claims would not impose a serious burden on the Office. The MPEP in §803 states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. Applicants respectfully point out that thousands of U.S. patents have issued in which many more subclasses are searched, and the Office cannot reasonably assert that a burden exists in searching these subclasses.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

1
Applicants further submit that this application is in condition for examination on the
merits and an early notification to that effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



36378

Norman F. Oblon
Attorney of Record
Registration No.: 24,618

J. Derek Mason, Ph.D.
Registration No. 35,270

Tel: (703) 413-3000
Fax: (703) 413-2220
NFO:JK:TWB:twb:aps
I:\atty\Twb\21940042US0-RR.wpd